IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

CRL.A.No. 1158 of 2001()

CC.762/1998 of ADDL.CHIEF JUDICIAL MAGISTRATE, ERNAKULAM
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APPELLANT:-(COMPLAINANT IN THE COURT BELOW):

P.KESAV KUMAR, COPY CORNER,
'SHREYAS', OPPOSITE MALAYALA MANORAMA,
PANAMPILLY NAGAR, ERNAKULAM.

BY ADV. SRI.S.ABDUL SALAM

RESPONDENTS:- (ACCUSED)
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1. **M.V.CHERIYAN, S/o.M.K.VARGHESE,**
   KOOLIYATTU HOUSE, P.O.BRAMHAPURAM,
   (NOW RESIDING AT QUARTER NO.B-F-3,
   FACT TOWNSHIP, UDYOGMANDAL P.O,
   ERNAKULAM DISTRICT)

2. **THE STATE OF KERALA REPRESENTED BY THE**
   DIRECTOR OF PUBLIC PROSECUTON,
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 13/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU,J

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CRL.A.No.1158 of 2001

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Dated this the 13th day of July,2007

ORDER

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act which stand dismissed as the complainant was not present.

2. It is submitted that the lapse was on account of the wrong noting of the posting date. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 14.08.2007.

The appeal is allowed.

K.R.UDAYABHANU,JUDGE

dvs